

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA v. JASON PAUL ONIS KING KIVI
THE HONORABLE JOHN W. SEDWICK CASE NO. 3:05-cr-00106-JWS
Deputy Clerk Official Recorder
Pam Richter

APPEARANCES: for PLAINTIFF: ----

for DEFENDANT: ----

PROCEEDINGS: **ORDER FROM CHAMBERS**

This order addresses the motions at dockets 13 and 31.

The motion at docket 13 was filed by defendant Kivi in an effort to suppress evidence found during a warrantless search by a state probation officer which turned up firearms, and statements Kivi made subsequent to that search on the grounds that the statements were fruit of the poisonous tree. The motion was fully briefed and the magistrate judge filed a report recommending that the motion be denied. Timely objections were filed by Kivi to which the United States responded. The magistrate judge filed a final report recommending that the motion be denied.

In a matter such as this, the district court reviews recommended findings of fact to which an objection is taken *de novo*, reviews recommended findings of fact as to which no objection has been taken for clear error, and reviews all recommended conclusions of law *de novo*. Having applied that standard, this court finds that the recommendations from the magistrate judge are correct in all material respects. This court adopts his recommended findings and conclusions. Based thereon the motion at docket 13 is **DENIED**.

The basis for the motion to continue trial at docket 31 was the assumption that the motion to suppress would not be decided sufficiently in advance of trial. Defendant indicated in his motion that the outcome of the motion to suppress would be dispositive. Accordingly, it would seem unnecessary to continue the trial. However, to be sure that the parties have an adequate opportunity to evaluate their positions in light of the above ruling, the motion at docket 31 is **GRANTED** as follows: The April 10, 2006, final pre-trial conference and trial by jury are **CONTINUED** to Wednesday, April 12, 2006, at 10:00 AM and 1:30 PM

respectively. This is within the Speedy Trial window.

IF defendant Kivi responds to this order by filing a notice of intent to change plea, then the **Clerk shall** enter a text or minute order which vacates the final pre-trial conference, vacates the trial date and sets the proposed change of plea on for consideration at 10:00 AM on Wednesday, April 12, 2006.

DATE: April 3, 2006

ENTERED AT JUDGE'S DIRECTION
INITIALS: pr
Deputy Clerk